

**BEFORE THE ARIZONA BOARD OF
OSTEOPATHIC EXAMINERS IN MEDICINE AND SURGERY**

IN THE MATTER OF:)	Case Nos. 2349, 2400, 2496
)	
PHILO ROGERS, D.O.)	FINDINGS OF FACT,
Holder of License No. 2809 for the)	CONCLUSIONS OF LAW
practice of osteopathic medicine)	AND BOARD ORDER FOR
in the State of Arizona.)	PROBATION
_____)	

INTRODUCTION

This matter came before the Board of Osteopathic Examiners in Medicine and Surgery (hereafter "Board") for final consideration and decision at the Board's public meeting held on January 22, 2000. Pursuant to its statutory authority at A.R.S. § 32-1855(E), the Board held an Informal Interview on January 22, 2000. During the course of these proceedings, Philo Rogers, D.O. (hereinafter "Respondent") was present and represented by legal counsel, Cal Baskerville.

Based upon Respondent's testimony and documentary evidence submitted to the Board, the board issues the following Findings of Fact, Conclusions of Law and Order.

FINDINGS OF FACT

1. Respondent is a licensee of the Board and the holder of License No. 2809.
2. On or about October 21, 1997 the Board received information showing that Respondent was prescribing approximately 60 Percocet every three days to one patient for approximately three months from July to September 1997. This allegation of overprescribing resulted in the Board's investigation Case No. 2349.

3. On or about February 11, 1998 the Board received information from patient L.C. alleging questionable care and overprescribing of narcotics, approximately 100 Percocet about every ten to eleven days. This allegation resulted in the Board's investigation Case No. 2400.

4. On or about July 16, 1998 the Board received information showing that Respondent was prescribing approximately 150 Hydrocodone and 60 to 120 Fioricent with Codiene per month to patient S.D. This allegation resulted in the Board's investigation case No. 2496.

5. At the Board's April 10, 1999 open meeting, the Board voted to combine the investigation and have an outside consultant review Dr. Rogers' prescribing practices. Stephen Borowsky, M.D. was retained as a consultant to review cases #2349, 2400 and 2496. Dr. Borowsky found that Dr. Rogers had prescribed large amounts of narcotics without sufficient documentation on a number of patients.

6. At the Board's January 22, 2000 open meeting, the Board heard testimony from Respondent and reviewed all documentation on the allegations. In public session the Board voted on January 22, 2000 that Respondent's license should be placed on a probationary status for continuing medical education and random chart review and authorized the Board's Executive Director to sign and issue a Board Order regarding Respondent that follows hereinafter.

CONCLUSIONS OF LAW

1. Pursuant to Arizona Revised Statutes § 32-1800, et seq., the Arizona Board of Osteopathic Examiners in Medicine and Surgery has subject matter and personal jurisdiction in this matter.

2. The Board has the authority to enter into an order for disciplinary action against a license, pursuant to A.R.S. § 41-1063, A.R.S. § 32-1855 and A.R.S. § 32-1861(D).

3. The Respondent engaged in unprofessional conduct as defined in A.R.S. § 32-1854 by violating federal and state statutes and regulations:

(5) Prescribing, dispensing or administering controlled substances or prescription only drugs for other than accepted therapeutic purposes.

(6) Engaging in the practice of medicine in a manner that harms or may harm a patient or that the Board determines falls below the community standard.

(40) Any conduct or practice that endangers a patient's or the public's health or may reasonably be expected to do so.

ORDER

Pursuant to the authority vested in the Board, **IT IS HEREBY ORDERED THAT:**

1. Philo Rogers, D.O. ("Respondent") shall comply with the following terms and conditions of this agreement:

2. Respondent's Board License Number 2809 will be placed under **PROBATION** for two (2) years and he shall comply with the terms and conditions of probation as set forth herein:

3. From the date of this Order, Respondent shall obtain ten hours of continuing medical education ("CME") in each of the following areas: appropriate prescribing, pain management, which includes acute, chronic and terminal pain and medical record keeping. The CME shall be approved in advance by the Board's Executive Director or designee. The CME requirement of this Board order is in addition to the CME requirement that Respondent needs to maintain his osteopathic medical license in Arizona.

4. Respondent shall undergo random chart reviews by the Board's staff or designee. The random chart review shall consist of a minimum of ten charts done on a quarterly basis. The

chart reviews will insure appropriate prescribing and whether or not pain contracts are in use.

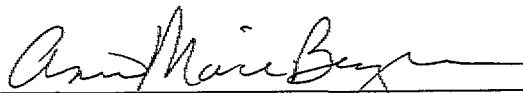
5. In the event Respondent moves and ceases to practice medicine in Arizona, he shall give written notice to the Board of his new residence address within twenty (20) days of moving; and, the terms and duration of probation may be stayed by the Board until Respondent returns to practice medicine in Arizona.

6. Respondent shall continue to meet all licensing requirements such as continuing medical education and renewal requirements including applicable fees pursuant to A.R.S. § 32-1825.

7. Respondent's failure to comply with the requirements of this Order shall constitute unprofessional conduct as defined at A.R.S. § 32-1854(26), as amended, and may be considered as grounds for further disciplinary action (e.g., suspension or revocation of license) in the event that Respondent fails to comply with any of the requirements of this Order.

ISSUED this 25th day of January, 2000.

ARIZONA BOARD OF OSTEOPATHIC EXAMINERS
IN MEDICINE AND SURGERY

By: 
Ann Marie Berger, Executive Director
9535 E. Doubletree Ranch Road
Scottsdale AZ 85258
(480) 657-7703

Served by personal service or
sending U.S. certified mail
this 26 day of January, 2000 to:

Philo Rogers D.O.
6336 E. Brown Road, #101
Mesa AZ 85205

Copy mailed this 16 day of January, 2000 to:

Cal Baskerville, Esq.
616 E. Southern Ave., Suite 103
Mesa AZ 85204

Blair Driggs
Assistant Attorney General
Office of the Attorney General
1275 W. Washington
Phoenix AZ 85007 (w/enclosure)

Arizona Board of Pharmacy
5060 N. 19th Ave., Suite 101
Phoenix AZ 85015

Drug Enforcement Administration
Attention: Diversion Section
3010 N. 2nd St
Phoenix AZ 85012

Amita Boyd